

ARIZONA DEPARTMENT OF EDUCATION
CHILD AND ADULT CARE FOOD PROGRAM

PROCUREMENT STANDARDS & GUIDELINES

Child and Adult Care Food Program regulations require that all sponsors have standards that are followed when food or supplies are purchased.

All **for-profit** CACFP institutions in Arizona must follow these purchasing thresholds:

AMOUNT	PROCUREMENT METHOD FOR OBTAINING GOODS AND SERVICES
\$0-\$999	Use price comparison. Quotes are not required.
\$1,000-\$4,999	Verbal price quotes from three (3) or more vendors.
\$5,000-\$9,999	Written price quotes from three (3) or more vendors.
\$10,000 and more	Competitive sealed bidding (i.e., Request For Proposal or Invitation For Bid).

Note: For-profit institutions participating in the CACFP must also follow procurement requirements as stated in 7 CFR 226.22.

All **Non-governmental, non-profit institutions** participating in the CACFP must also follow procurement requirements as stated in 7 CFR 3019. These guidelines require, among other provisions, that purchases over \$100,000 be conducted by a formal solicitation, unless the institution has regulations establishing a small purchase threshold of less than \$100,000 in which case a formal solicitation would be required. For purchases under \$100,000 price or rate quotations must be obtained from an adequate number of qualified sources. **Note:** The best practice is to obtain written price quotes from three (3) or more vendors.

These standards are furnished to ensure that materials and services are obtained efficiently and economically. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition.

1. No employee, officer or agent of this institution shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - The employee, officer or agent;
 - Any member of immediate family;
 - His or her partner; or
 - An institution which employs, or is about to employ, and of the above, has a financial or other interest in the firm selected for award.
2. Officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Misuse of funds is punishable under the laws of Arizona.
3. Proposed procurement actions shall be reviewed by institution officials to avoid the purchase of unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical.
4. Affirmative steps shall be taken to assure that small and minority businesses are utilized when possible. Affirmative steps shall include the following:
 - Including qualified small and minority businesses on solicitation lists
 - Assuring that small and minority businesses are solicited whenever they are potential sources;
 - Where the requirements, establishing delivery schedules which will encourage participation by small and minority businesses

- Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required
 - If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1 through 5 above
 - Taking similar appropriate affirmative action in support of women's business enterprises
5. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to:
- Placing unreasonable requirements on firms in order for them to qualify to do business
 - Non-competitive practices between firms
 - Institutional conflicts of interest
 - Unnecessary experience and bonding requirements
6. This institution's selection procedures, whether by competitive bids or discussions shall adhere to the following procedural requirements:
- 1) Incorporate a clear and accurate description of the technical requirements for the material, product, or services to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand, which must be met by offerors, shall be clearly stated.
 - 2) Awards shall be made only to the lowest responsible and responsive bidder that possesses the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
 - 3) Program procurements shall be made by one of the following methods:
 - Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies, or other property. Depending on the type of institution, profit or non-profit, will determine the small purchase threshold. Please refer to the page 1 for the small purchase threshold requirements.
 - In competitive sealed bids (formal advertising), sealed bids will be publicly solicited and a firm-fixed price contract (lump sum or unit price) will be awarded to the responsible and responsive bidder whose bid, confirming with all the material terms and conditions and evaluation criteria set forth in the invitation for bids, is the lowest price.
 - In order for formal advertising to be feasible, appropriate conditions must be present, including as a minimum, the following:
 - A complete, adequate and realistic specification or purchase description is made available.
 - Two or more responsible suppliers who are willing and able to compete effectively for the institution's business.
 - The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.
 - If formal advertising is used for procurement under the Program, the following requirements shall apply:
 - A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.

-The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

-All bids shall be opened publicly at the time and place stated in the invitation for bids.

-A firm-fixed price contract award shall be made by written notice to the responsible and responsive bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.

-Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program. The reasons for the rejection shall be made part of the procurement file.

Note: For purchases over \$25,000 the institution must verify the status of the vendor or contractor regarding debarment and suspension. This can be verified at: <http://epls.arnet.gov/>

- In competitive discussions, proposals will be requested from a number of sources and the Request for Proposal is publicized. Discussions may be conducted with more than one of the vendors submitting offers, and either a fixed-price or cost reimbursable type contract is awarded, as appropriate. If competitive discussions are used for a procurement under a grant, the following requirements shall apply:

-Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

-The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and shall be listed in the relative order of importance. No other factors or criteria may be used in the evaluation unless set forth in the RFP.

-The institution shall provide mechanisms for technical evaluation of the proposal received, determinations of responsible offers for the purpose of written or oral discussions, and selection for contract award.

-The institution shall award a contract to the offeror whose proposal is determined in writing to be the most advantageous to the procuring party based on the factors set forth in the request for proposals. Unsuccessful offerors may be notified in writing of the award.

Note: For purchases over \$25,000 the institution must verify the status of the vendor or contractor regarding debarment and suspension. This can be verified at: <http://epls.arnet.gov/>

7. Noncompetitive procurement is solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive procurement will be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising), or competitive discussion procedures. It is important that proper documentation and justification be included in the procurement file. Circumstances under which a contract may be awarded by noncompetitive procurement are limited to the following:

- The item is available only from a single source.
- Public emergency exists which does not permit the delay which would occur if formal procurement procedures were used.
- FNS authorized noncompetitive negotiation.
- After solicitation of a number of sources, competition is determined inadequate.

8. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
9. All contracts in excess of \$10,000 shall contain suitable provisions for termination. Such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
10. All negotiated contracts (except those awarded by small purchases procedures) awarded by institutions shall include a provision to the effect that the institution, FNS, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. This institution shall require contractors to maintain all required records for three (3) years after the institution makes final payment and all other pending matters are closed.
11. Institutions shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
12. Using geographic preference in procurement is prohibited under USDA entitlement programs (3016.60 (c)).
13. Awarding of contracts under USDA entitlement programs to firms “that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals” for such procurements are not allowed. The purpose of this regulation is to “ensure objective contractor performance and eliminate unfair competitive advantage.” This ruling does not prohibit consultations between program operators and industry. (3016.60 and 3019)
14. All contracts awarded in excess of \$10,000 by institutions and their contractors shall contain a provision requiring compliance with Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR part 60).

This institution has read the above Procurement Standards and Guidelines and agrees to abide by them. If you have any questions or concerns regarding this information, please contact the Health and Nutrition Contracts Officer, Brian Walsh at (602) 542-6208 or bwalsh@ade.az.gov.

Sponsoring Institution _____

Signature of Sponsor Official _____

Title _____

Date _____

In Accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

USDA is an Equal Opportunity Provider and Employer.